



OFFICE OF THE COUNTY EXECUTIVE
ROCKVILLE, MARYLAND 20850

Isiah Leggett
County Executive

August 29, 2011

Ms. Kathy Stevens, Chair
Silver Spring Citizens Advisory Board
Silver Spring Regional Center
One Veterans Place
Silver Spring, MD 20910

Dear Ms. Stevens: / *Kathy*

Thank you and the Silver Spring Citizens Advisory Board for taking the time to write about the Fenton Street Market (FSM). I certainly agree that the market is popular and attracts residents to the downtown area, benefiting surrounding businesses.

In fact, the value or worth of FSM has never been an issue, but concerns about fairness have been raised because the arrangement was outside the normal competitive process, and other organizations (both nonprofit and for-profit) have not had the same level of access. Other organizations have requested Saturday use of the plaza but, unfortunately, other use could not be scheduled because of the current agreement with FSM.

There have been a number of changes since Community Use of Public Facilities (CUPF) took over the management of the Silver Spring Civic Building on July 1, 2011. CUPF's mission is to ensure fair and equitable access to public space for all groups according to the established policies and guidelines of the Interagency Coordinating Board (ICB). CUPF is not able to provide a benefit to FSM that would not be available to all user groups.

CUPF was established as a nontax supported agency in 1978 by County and State law with the formation of the ICB as its governing body. The ICB establishes policies consistent with Council Resolution 12-595 - User Fee Policy, which addresses allocation of limited resources, benefit to the community, ability to pay, and includes a statement that the user fees should "cover the 'privilege' costs of having a facility available and to cover the costs of reserving a facility. User fees should be charged which are proportional to the individual benefit. The starting point should be that 100 percent of the full cost should be reflected."

Additionally, while we appreciate the degree to which FSM appears to be self-sufficient, a number of incidents requiring intervention by CUPF, County Security, and Fire-Rescue staff have been required. On Saturdays, CUPF and Regional Center staff are expected to be available to address a variety of issues. Also, there is an impact on the building as many use the restrooms and vendors utilize electricity. In addition, there is also lost revenue to the County by other potential groups, e.g., community organization celebrations, other flea markets, etc.

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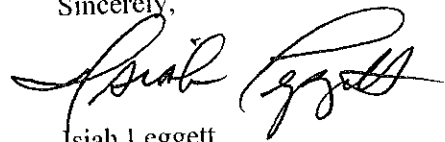
During the year prior to opening the Civic Building, CUPF staff conducted extensive benchmarking with many venues in the Washington metropolitan area for everything from facility fees and use policies to the type of confetti allowed. The fees established for the building and plaza area are consistent with comparable public buildings. For example, the Connaughton Community Plaza in Prince William County, Virginia, would charge \$3,200/day for comparable use (\$1,000 a day, plus \$1 per person in excess of 300 people), while the Gaithersburg outdoor pavilion would not permit long-term use by a for-profit entity. The ICB's Finance Advisory Committee also made it clear that the Civic Building should be equally accessible to everyone in the County. CUPF has offered FSM use of the full plaza at the ½ plaza rate of \$125 when their current agreement ends.

CUPF has not raised or changed its fees. The facility fees for the plaza were established by the ICB on March 24, 2010. FSM's current use of the plaza was an arrangement made with the Silver Spring Regional Center through the end of 2011 and the reservation was booked under the Regional Center. During the first year of operating the Civic Building, the County chose to experiment with different approaches and the Regional Center did so with the spirit of identifying what worked and what didn't work and was cognizant that the second year of operation would be very different. FSM was never charged rent or a facility use fee but under the agreement with the Regional Center, the County was reimbursed a nominal \$48 administrative fee weekly. The FSM rents this space to other commercial entities each week at a minimal daily rate of \$40 per space (larger spaces are \$80). Based on conservative estimates, FSM is collecting \$115,200 over the span of 10 months of use.

The County wants to ensure that FSM's use of County facilities does not constitute a violation of equitable access or provide a subsidy in the form of free space to a private enterprise outside the competitive procurement process. While the placement of FSM is certainly a possibility for the most effective use of the space in 2012, competing demands have surfaced that require the County to take a close look at how we can maximize the use of the plaza within established policies and protocols. The County may wish to consider an RFP process to evaluate a variety of options for activating the plaza. I'm sure you join me in striving for fair and equitable allocation of public spaces and consistent treatment of all groups.

Again, thank you and the Silver Spring Citizens Advisory Board for taking the time to write.

Sincerely,



Isiah Leggett
County Executive